
R590. Insurance, Administration. (Effective 11-1-06)**R590-236. HIPAA Eligibility Following Receipt of a Certificate of Insurability or Denial by an Individual Carrier.****R590-236-1. Authority.**

This rule is promulgated and adopted pursuant to Subsections 31A-2-201(3), 31A-29-106(1)(f), and 31A-30-104(7).

R590-236-2. Purpose and Scope.

(1) The purpose of this rule is to provide interpretation of the interplay between federal and state statutes that affect the protections provided by the federal Health Insurance Portability and Accountability Act (HIPAA), Pub.L. 104-191, 110 Stat. 1962, to applicants that apply for coverage with HIPUtah and receive a certificate of insurability from HIPUtah, or denial of coverage by an individual carrier.

(2) The rule addresses the effective dates of coverage for HIPAA eligible applicants applying for coverage with an individual carrier or HIPUtah.

(3) The rule provides guidance for actual and potential interplay between HIPAA, Sections 31A-22-605.1, 31A-30-108, and 31A-29-111 to:

- (i) individual carriers,
- (ii) the HIPUtah pool administrator; and
- (iii) HIPUtah applicants.

R590-236-3. Definitions.

As used in this rule:

(1) "Certificate of insurability" means a certificate issued by HIPUtah pursuant to Subsection 31A-29-111.

(2) "HIPAA" means the federal Health Insurance Portability and Accountability Act, Pub.L. 104-191, 110 Stat. 1962.

(3) "HIPAA eligible" means an applicant who is eligible for coverage under the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1962.

(4) "HIPAA eligibility" means the eligibility required by the federal Health Insurance Portability and Accountability Act, Pub. L. 104-191, 110 Stat. 1962.

(5) "HIPUtah" means the Utah Comprehensive Health Insurance Pool established by Section 31A-29-104.

(6) "Individual carrier" has the same meaning as defined in Subsection 31A-30-103.

(7) "Preexisting condition" means preexisting condition as defined in Subsection 31A-1-301.

(8) "Waiting period" means the period of time beginning on the date the HIPAA eligible submits a substantially complete application for coverage and ends on the date:

- (a) coverage is effective;
- (b) the application is denied by the insurer; or
- (c) which the offer of coverage lapses without being accepted by the HIPAA eligible.

R590-236-4. HIPAA and Subsection 31A-22-605.1, Eligibility and Creditable Coverage.

(1) A HIPAA eligible must submit a substantially complete application no later than 63 consecutive days, excluding waiting periods, following termination of any preceding HIPAA qualified coverage, to preserve HIPAA rights.

(2) A HIPAA eligible cannot have a break in qualifying coverage of 63 or more consecutive days, except for applicable waiting periods to preserve HIPAA rights.

(3) HIPAA eligibles applying within the time period in R590-236-4(1) will receive creditable coverage toward a preexisting condition waiting period.

(4) A waiting period does not count in determining whether a break in qualifying coverage occurred.

R590-236-5. HIPAA and Subsection 31A-29-111(4)(a), 30-Day Provision.

(1) This section applies to a HIPAA eligible that has been denied by an individual carrier and is approved by HIPUtah.

(2) When a HIPAA eligible submits a substantially completed application to an individual carrier within the HIPAA 63-day time period and is denied coverage, to preserve HIPAA rights, the HIPAA eligible must make application to HIPUtah no later than:

(a) the remainder of the 63 consecutive day time period under HIPAA; or

(b) 30 consecutive days after denial by the individual carrier.

(3) Effective Dates.

(a) A HIPAA eligible applying within the time period in R590-236-5(2)(a), shall have an effective date with HIPUtah on the first day of the month following the submission of a substantially completed application, if the required premium is paid.

(b) A HIPAA eligible applying within the time period in R590-236-5(2)(b), shall have an effective date with HIPUtah on the first day of the month following the date of submission of a substantially completed application to the individual carrier who denied coverage immediately prior to the application to HIPUtah, if the required premium is paid.

(c) When a HIPAA eligible applies within both time periods in R590-236-5(2)(a) and (b), the HIPAA eligible shall choose the effective date provided in R590-236-5(3)(a) or (b).

R590-236-6. HIPAA and Subsection 31A-30-108(3)(e)(i), 30-Day Provision.

(1) This section applies to a HIPAA eligible who meets HIPUtah's eligibility requirements but does not meet HIPUtah's health underwriting criteria, having been previously denied by an individual carrier, and is issued a certificate of insurability under Section 31A-29-111.

(2)(a) A HIPAA eligible may reapply with the individual carrier who denied coverage immediately prior to HIPUtah's issuance of a certificate of insurability to preserve HIPAA rights, no later than:

(i) the remainder of the 63 consecutive day time period under HIPAA; or

(ii) 30 consecutive days after the date of issuance of a certificate of insurability.

(b) R590-236-6(2)(a) applies only to a HIPAA eligible that has:

(i) submitted a substantially completed application to an individual carrier within the HIPAA 63-day time period;

(ii) is denied coverage by an individual carrier; and

(iii) makes application to HIPUtah no later than:

(I) the remainder of the 63 consecutive day time period under HIPAA; or

(II) 30 consecutive days after denial by the individual carrier.

(3) Effective Dates.

(a) A HIPAA eligible applying within the time period in R590-236-6(2)(a)(i), shall have an effective date with the individual carrier on the first day of the month following the submission of a substantially completed application, if the required premium is paid.

(b) A HIPAA eligible applying within the time period in R590-236-6(2)(a)(ii), shall have an effective date with the individual carrier on the first day of the month following the original submission of a substantially completed application to the individual carrier who denied coverage immediately prior to the application to HIPUtah, if the required premium is paid.

(c) When a HIPAA eligible applies within both time periods in R590-236-6(2)(a)(i) and (ii), the HIPAA eligible shall choose the effective date provided in R590-236-6(3)(a) or (b).

R590-236-7. HIPAA and Subsection 31A-30-108(3)(e)(ii)(B), 45-Day Provision.

(1) This section applies to a HIPAA eligible who applies first with HIPUtah, meets HIPUtah's eligibility requirements, but does not meet HIPUtah's health underwriting criteria and is issued a certificate of insurability under Section 31A-29-111.

(2) When a HIPAA eligible submits a substantially completed application to HIPUtah within the HIPAA 63-day time period and is issued a certificate of insurability, the HIPAA eligible may make application to an individual carrier no later than:

- (a) the remainder of the 63 consecutive day time period under HIPAA; or
- (b) 45 consecutive days after the date of issuance of a certificate of insurability by HIPUtah.

(3) Effective Dates.

(a) A HIPAA eligible qualifying under option R590-236-7(2)(a) shall have an effective date of the first of the month following the submission of the substantially completed application to an individual carrier, if the required premium is paid.

(b) A HIPAA eligible qualifying under R590-236-7(2)(b) shall have an effective date of the day following the submission of the substantially completed application to HIPUtah, if the required premium is paid.

(c) When a HIPAA eligible applies within both time periods in R590-236-7(2)(a) and (b), the HIPAA eligible shall choose the effective date provided in R590-236-7(3)(a) or (b).

R590-236-8. Severability.

If any provision of this rule or the application of the rule to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the rule to other persons or circumstances shall not be affected by such a determination.

R590-236-9. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule immediately upon the effective date of the rule.

KEY: HIPAA eligibility

Date of Enactment or Last Substantive Amendment: April 9, 2007

Authorizing, and Implemented or Interpreted Law: 31A-29-106, 31A-30-104,

31A-2-201

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